

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Schiavo	Team: Team # 4	CCRB Case #: 200913227	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/06/2009 8:00 PM	Location of Incident: 414 Beach 58th Street	Precinct: 101	18 Mo. SOL 2/6/2011	EO SOL 2/6/2011	
Date/Time CV Reported Tue, 08/25/2009 7:04 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 08/25/2009 7:04 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Phillip Johnson	07559	947112	QS IRT
2. POF Diana Kaouris	04908	947118	QS IRT
3. SGT Bruce Ceparano	00485	933682	QS IRT
4. LT Anthony Parisi	00000	922938	QS IRT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Bruce Ceparano	Abuse: Sgt. Bruce Ceparano frisked § 87(2)(b)	
B.SGT Bruce Ceparano	Abuse: Sgt. Bruce Ceparano searched § 87(2)(b)	
C.POM Phillip Johnson	Abuse: PO Phillip Johnson searched the car in which § 87(2)(b) was an occupant.	
D.POF Diana Kaouris	Abuse: PO Diana Kaouris searched the car in which § 87(2)(b) was an occupant.	
E.LT Anthony Parisi	Abuse: Lt. Anthony Parisi searched the car in which § 87(2)(b) was an occupant.	

## Case Summary

§ 87(2)(b) filed a complaint with the CCRB via telephone on August 25, 2009 against members of the NYPD (Encl. 6A-B). He reported that on August 6, 2009 at approximately 8:00 p.m., officers from Queens South Impact Response Team stopped his vehicle at 414 Beach 58<sup>th</sup> Street. The following allegations resulted:

- **Allegation A- Abuse of Authority:** Sgt. Bruce Ceparano frisked § 87(2)(b)
- **Allegation B- Abuse of Authority:** Sgt. Bruce Ceparano searched § 87(2)(b)
- **Allegation C- Abuse of Authority:** PO Phillip Johnson searched the car in which § 87(2)(b) was an occupant.
- **Allegation D- Abuse of Authority:** PO Diana Kaouris searched the car in which § 87(2)(b) was an occupant.
- **Allegation E- Abuse of Authority:** Lt. Anthony Parisi searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

On March 1, 2010, the case was reassigned from Investigator Howell to the undersigned, as Investigator Howell had left the agency.

## Results of Investigation

### Civilian Statement(s)

#### Complainant: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black male, is 5'8", weighs 125 pounds, and has black hair and brown eyes.

### CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on September 11, 2009 (Encl. 7A-E). § 87(2)(b) was double parked at the incident location waiting for a parking spot. After two to three minutes, he was approached by Sgt. Bruce Ceparano (white male, 5'8", 135 to 140 pounds, small frame, nearly bald, and wearing glasses) from the 100<sup>th</sup> Precinct and PO Philip Johnson (black male, over 250 pounds, muscular build, 6 feet tall, in uniform) from the Queens South Impact Response Team. He saw a marked patrol van a few feet behind him with flashing red lights. Sgt. Ceparano approached § 87(2)(b)'s driver's side window and told him that he "blew" a red light, which § 87(2)(b) denied. He did not say where he saw the violation take place. He asked § 87(2)(b) for his driver's license and registration. Shortly thereafter, Sgt. Ceparano asked if he could see inside the rear of the vehicle. § 87(2)(b) rolled down his back windows and asked Sgt. Ceparano why he wanted to see inside the vehicle. Sgt. Ceparano stated the reason was that the windows were dark. He then slightly stuck his head inside of the rear window on the driver's side and looked around the vehicle. Sgt. Ceparano asked § 87(2)(b) if he had anything to hide and if he would mind stepping out of the vehicle.

PO Johnson approached § 87(2)(b)'s driver's door and said "That's it, step out of the vehicle." Upon § 87(2)(b) exiting, PO Johnson said that he wanted to search the vehicle and § 87(2)(b) told him that he did not consent to any searches. Sgt. Ceparano told him that he smelled something but did not say what it was. Sgt. Ceparano frisked § 87(2)(b) down his pants legs. He then went into his front right small pocket and removed a cell phone battery and breath freshener. Sgt. Ceparano also removed papers from his left back pocket and an ink pen from his front right big pocket. PO Johnson searched under the front seat of his vehicle. During that time, § 87(2)(b) noticed two police officers, PO3 (white male in his late 50s, at least 6 feet tall, wearing a white shirt, graying blond hair, low haircut with short sideburns) and PO4 (white female in her 20s, blond hair in a pony tail, in uniform), identified through the investigation as PO Diana Kaouris and Lt. Anthony Parisi from Queens South Impact Response Team, exit the van. They searched under the seats on the passenger side and then went back to the police van.

Sgt. Ceparano and PO Johnson went into the police van. After approximately 15 minutes, Sgt. Ceparano and PO Johnson approached § 87(2)(b) and Sgt. Ceparano handed him a summons for running a red light and driving at excessive speed in front of 414 Beach Channel Drive and 58<sup>th</sup> Street.

On November 16, 2009, § 87(2)(b) was contacted in regards to the stop and frisk report (Encl. 8), which indicated that he was stopped inside of § 87(2)(b) prior to the car stop. § 87(2)(b) denied interacting with the officers in that building before the car stop occurred.

### Attempts to Contact Civilians

§ 87(2)(b) stated that a neighbor that lived at the incident location identified as § 87(2)(b) last name unknown, asked him if officers searched him after the interaction. § 87(2)(b) did not see § 87(2)(b) while he was outside and did not know what he saw. A please call letter was sent to § 87(2)(b) on October 15, 2009. § 87(2)(g)

### NYPD Statement(s):

#### Subject Officer: PO PHILLIP JOHNSON

- *PO Johnson is a § 87(2)(b)-old black male. He is 6'2", weighs 280 pounds, and has black hair and brown eyes.*
- *PO Johnson was in uniform and worked with Sgt. Ceparano from 5:30 p.m. to 2:05 a.m. His assignment was the sergeant's operator. He was assigned to marked patrol van #5837.*

### Memo Book

PO Johnson's memo book entries for this incident (Encl. 11A) are as follows: **2045: male stopped at 414 58<sup>th</sup> Street, 250 prepared, § 87(2)(b) BK NY, § 87(2)(b)**

### Stop and Frisk Report

The stop and frisk report created by PO Johnson (Encl. 14E-F) indicates that on August 6, 2009 at 7:20 p.m., § 87(2)(b) was stopped for criminal trespassing in the hallway inside of a housing development located at § 87(2)(b) in Queens. He was stopped because of actions indicative of casing a victim or location and loitering in the building. He was also in

close proximity to the scene of a suspected offense. § 87(2)(b) was not frisked, searched, issued a summons, or arrested. No weapons or contraband were found on him.

### CCRB Testimony

PO Johnson was interviewed at the CCRB on November 19, 2009 (Encl. 11B-C). PO Johnson did not recall the traffic stop for this incident. He explained that he conducted verticals all day in the New York City housing development near the incident location and was in and out of buildings. The 250 indicated a different time that § 87(2)(b) was stopped than what was in PO Johnson's memo book. It also listed the address of the stop as § 87(2)(b). PO Johnson explained that that may have been a different stop or he may have incorrectly written the time of the stop in the building in his memo book. The address on the 250 may be incorrect.

PO Johnson stated he did not work with PO Kaouris. He did not make any stops for traffic violations on the date of incident. PO Johnson did not recognize the photo of § 87(2)(b).

#### Subject Officer: SGT. BRUCE CEPARANO

- *Sgt. Ceparano is a § 87(2)(b)-old white male. He is 5'9", weighs 215 pounds, is bald, and has brown eyes and wears glasses.*
- *He was in uniform and worked with PO Johnson and PO Kaouris from 5:15 p.m. to 2:05 a.m. His assignment was Impact Response Team supervisor.*

#### Memo Book

Sgt. Ceparano's entries in his memo book regarding this incident (Encl. 9A-C) are as follows: **2040: car stop, F/O 414 B 58 St., § 87(2)(b) 96 x1 for reckless driving, UF 250 prepared for suspicion of CPW due to furtive movements and a bulge in waistband.**

### CCRB Testimony

Sgt. Ceparano did not recall any details of the car stop. He was shown a photograph of § 87(2)(b) and he did not recognize the photo. Sgt. Ceparano was shown a copy of the stop and frisk report and he did not recall being at the location that was listed on the report or conducting any verticals that day. Because his memo book indicated a 250 was created for CPW in front of 414 Beach 58<sup>th</sup> Street he believed that the stop and frisk report for § 87(2)(b) indicating that he was stopped inside § 87(2)(b) was incorrect.

#### Subject Officer: PO DIANA KAOURIS

- *PO Kaouris is a § 87(2)(b)-old white female. She is 5'5", weighs 140 pounds, and has brown hair and brown eyes.*
- *PO Kaouris was in uniform and worked with PO Johnson from 5:30 p.m. to 2:05 a.m. Her assignment was conducting traffic stops. She was assigned to marked patrol van #5837.*

#### Memo Book

PO Kaouris's memo book entries for this incident (Encl. 10A-B) are as follows: **1920: 75, 54-81, 2040: car stopped for reckless driving, run red light, driving high rate of speed, tinted window 414 Beach 58.**

### CCRB Testimony

PO Kaouris was interviewed at the CCRB on October 27, 2009 (Encl. 10C-D). On the date of the incident, PO Kaouris duties were to drive around and look for traffic violations. She believed she was the recorder on that day. She did not recall the incident. Off the

record, she was shown a copy of the summons that she wrote and she did not recall creating the summons.

PO Kaouris did not recall making any vehicle stops on that day. She and PO Johnson never separated while they worked.

PO Kaouris was shown the stop and frisk report, which listed a different location from the car stop noted in her memo book. PO Kaouris could not provide any details regarding the stop in the building.

**Subject Officer: LT. ANTHONY PARISI**

- *Lt. Parisi is a § 87(2)(b)-old white male. He is 6 feet tall, weighs 200 pounds, and has brown hair and hazel eyes.*
- *He worked from 5:30 p.m. to 2:05 p.m. by himself. His assignment was the platoon commander for the Impact Response Team for the 101<sup>st</sup> Precinct Satellite. He was assigned to a marked RMP. He had no entries in his memo book regarding this incident (Encl. 12A-B).*

**CCRB Testimony**

Lt. Parisi was interviewed at the CCRB on January 22, 2010 (Encl. 12C-D). He was the platoon commander for the Impact Response team for the 101<sup>st</sup> Precinct satellite, which was located in a housing development. He was shown a photograph of § 87(2)(b) and he did not recognize the photo.

Lt. Parisi did not recall what his duties were around the time of the incident but stated that he did not conduct any car stops on the date of incident and did not work with PO Kaouris, Sgt. Ceparano, or PO Johnson.

**Summons**

- The disposition of the summons that § 87(2)(b) received was not available.

**Civilian(s) Criminal History**

- § 87(2)(b)

**Civilian(s) CCRB History**

- This is the second CCRB complaint filed by § 87(2)(b) (Encl. 5).

**Subject Officer(s) CCRB History**

- Sgt. Ceparano has been a member of the service for six years and there are no substantiated CCRB allegations against him (Encl. 1).
- PO Kaouris has been a member of the service for one year and there are no substantiated CCRB allegations against her (Encl. 3).
- PO Johnson has been a member of the service for one year and there are no substantiated CCRB allegations against him (Encl. 2).
- Lt. Parisi has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (Encl. 4).

**Conclusions and Recommendations**

**Identification of Subject Officer(s)**

- PO Kaouris issued § 87(2)(b) a summons (Encl. 13) for traffic violations and she was the only female that worked with the other subject officers. She stated that she worked with PO

Johnson, who was the only black male officer. § 87(2)(b) stated that there was only one black male officer present. The stop and frisk report also indicated that PO Johnson interacted with § 87(2)(b)

- PO Johnson stated that he worked with Sgt. Ceparano, who acknowledged working with both PO Kaouris and PO Johnson. Sgt. Ceparano is a white male, bald headed, 5'9", and wears glasses. This is consistent with the physical description § 87(2)(b) provided.
- Lt. Parisi was identified via the roll call as he was the only lieutenant working on the date and around the time of the incident, and § 87(2)(b) stated that an officer in a white shirt searched his car.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pleaded**

§ 87(2)(b)'s vehicle was stopped at the incident location for traffic violations. § 87(2)(b) denied committing any traffic infractions but admitted to being double parked. § 87(2)(g)

**Allegation A- Abuse of Authority: Sgt. Bruce Ceparano frisked § 87(2)(b)**

**Allegation B- Abuse of Authority: Sgt. Bruce Ceparano searched § 87(2)(b)**

**Allegation C- Abuse of Authority: PO Phillip Johnson searched the car which § 87(2)(b) was an occupant.**

**Allegation D- Abuse of Authority: PO Diana Kaouris searched the car in which § 87(2)(b) was an occupant.**

**Allegation E- Abuse of Authority: Lt. Anthony Parisi searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

Team: \_\_\_\_\_

:

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date